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SERVICE DATE - AUGUST 31, 2001

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FR-4915-00-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB-472 (Sub-No. 1X)]

Dakota Rail, Inc.—Abandonment Exemption—in McLeod, Carver, and Hennepin
Counties, MN

On August 13, 2001, Dakota Rail, Inc. (Dakota Rail), filed with the Surface Transportation Board (Board) a petition under 49 U.S.C. 10502 for exemption from the provisions of 49 U.S.C. 10903 to abandon its entire rail line from milepost 24.6, near Wayzata, to the end of the line at milepost 68.5, in Hutchinson, a distance of approximately 43.9 miles, in McLeod, Carver, and Hennepin Counties, MN. The line traverses U.S. Postal Service Zip Codes 55323, 55350, 55354, 55356, 55360, 55361, 55364, 55367, 55375, 55381, 55384, 55387, and 55391, and includes the stations of Wayzata at milepost 24.6, Crystal Bay at milepost 27.5, Minnetonka Beach at milepost 29.0, Spring Park at milepost 30.6, Mound at milepost 32.5, St. Bonifacius at milepost 37.0, Mayer at milepost 45.0, New Germany at milepost 48.7, Lester Prairie at milepost 52.5, Silver Lake at milepost 60.2, and Hutchinson at milepost 68.5.

In addition to an exemption from 49 U.S.C. 10903, petitioner seeks exemption from 49 U.S.C. 10904 [offer of financial assistance (OFA) procedures] and 49 U.S.C. 10905 [public use conditions]. In support, Dakota Rail contends that the exemption from these provisions is necessary to avoid delay in the sale of Dakota Rail's stock to

McKnight Rail Road, L.L.C. (McKnight),¹ and the anticipated donation by McKnight of portions of the line to various localities. In addition, Dakota Rail states that the town of Mound, located at milepost 32.5, intends to use a portion of the line for highway construction and that this road project would be delayed, if not thwarted, by the OFA process in a case where there is no overriding public need here for continued rail service. These requests will be addressed in the final decision.

The line does contain federally granted rights-of-way. Any documentation in Dakota Rail's possession will be made available promptly to those requesting it.

In this proceeding, Dakota Rail is proposing to abandon a line that constitutes its entire rail system. When issuing abandonment authority for a railroad line that constitutes the carrier's entire system, the Board does not impose labor protection, except in specifically enumerated circumstances. See Northampton and Bath R. Co.—Abandonment, 354 I.C.C. 784, 785-86 (1978) (Northampton). Therefore, if the Board grants the petition for exemption, in the absence of a showing that one or more of the exceptions articulated in Northampton are present, no labor protective conditions will be imposed.

By issuing this notice, the Board is instituting an exemption proceeding pursuant to 49 U.S.C. 10502(b). A final decision will be issued by November 30, 2001.

¹ According to Dakota Rail, McKnight is a to be formed Illinois Limited Liability Corporation that is the acquisition vehicle for MidAmerica Development & Management Corporation and ELM Investments, L.L.C.

Any offer of financial assistance (OFA) under 49 CFR 1152.27(b)(2) will be due no later than 10 days after service of a decision granting the petition for exemption. Each OFA must be accompanied by a \$1,000 filing fee. See 49 CFR 1002.2(f)(25).

All interested persons should be aware that, following abandonment of rail service and salvage of the line, the line may be suitable for other public use, including interim trail use. Any request for a public use condition under 49 CFR 1152.28 or for trail use/rail banking under 49 CFR 1152.29 will be due no later than September 20, 2001. Each trail use request must be accompanied by a \$150 filing fee. See 49 CFR 1002.2(f)(27).

All filings in response to this notice must refer to STB Docket No. AB-472 (Sub-No. 1X) and must be sent to: (1) Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, N.W., Washington, DC 20423-0001; and (2) Louis E. Gitomer, 1455 F Street, N.W., Suite 225, Washington, DC 20005. Replies to the Dakota Rail petition are due on or before September 20, 2001.

Persons seeking further information concerning abandonment procedures may contact the Board's Office of Public Services at (202) 565-1592 or refer to the full abandonment or discontinuance regulations at 49 CFR part 1152. Questions concerning environmental issues may be directed to the Board's Section of Environmental Analysis (SEA) at (202) 565-1545. [TDD for the hearing impaired is available at 1-800-877-8339.]

An environmental assessment (EA) (or environmental impact statement (EIS), if necessary) prepared by SEA will be served upon all parties of record and upon any

agencies or other persons who commented during its preparation. Other interested persons may contact SEA to obtain a copy of the EA (or EIS). EAs in these abandonment proceedings normally will be made available within 60 days of the filing of the petition. The deadline for submission of comments on the EA will generally be within 30 days of its service.

Board decisions and notices are available on our website at
“WWW.STB.DOT.GOV.”

Decided: August 24, 2001.

By the Board, Joseph H. Dettmar, Acting Director, Office of Proceedings.

Vernon A. Williams

Secretary